

REMARKS

Claims 1 to 63 were pending in the application at the time of examination. Claims 1 to 63 are subject to election/restriction.

Restriction to one of the following inventions under 35 U.S.C. § 121 was required:

- I. Claims 1-7, 16-22, 31-37 and 46-52 drawn to method/apparatus/computer program for executing an obfuscated application program, classified in class 713, subclass 190.
- II. Claims 8-15, 23-30, 38-45 and 53-60 drawn to method/apparatus/computer program for creating an opcode value encoding scheme for an instruction set, classified in class 380, subclass 28.
- III. Claims 61-63 drawn to a memory for storing data for access by application program, classified in class 711, subclass 100.

Applicant elects Group I, Claims 1-7, 16-22, 31-37 and 46-52 with traverse.

The rejection characterized the inventions as subcombinations usable together in a single combination. Applicant respectfully points out that when the claims are read in view of the specification, as required by the MPEP, Group I claims are directed at a method of using an obfuscated application program; Group II claims are directed at a method for making such an obfuscated application program; and Group III claims at the product.

//

//

//

//

Both the product claims and the method of use claims
recite:

at least one instruction opcode encoded using one of
a plurality of instruction set opcode value encoding
schemes.

The group II claims recited a method of making such an
encoded opcode. Thus, the subcombination characterization in
the action is incorrect and failed to recognize the proper
relationship between the claims. The requirement for
restriction has failed to show that process of making is
distinct from the product, which is required by the Rules.

The MPEP, quoting 37 C.F.R. § 1.141 directs:

806.05(i)Product, Process of Making, and Process of Using ** [R-3]

*37 CFR 1.141. Different inventions in one national
application.*

(b)Where claims to all three categories, product, process
of making, and process of use, are included in a national
application, a three way requirement for restriction can
only be made where the process of making is distinct from
the product. If the process of making and the product are
not distinct, the process of using may be joined with the
claims directed to the product and the process of making the
product even though a showing of distinctness between the
product and process of using the product can be made.

MPEP § 806.05(i), 8th Ed. Rev. 5, p. 800-49, (August 2006).
Thus, the restriction requirement is improper and Applicant
respectfully reconsiders reconsideration and withdrawal of the
restriction requirement.

//
//
//
//
//

Appl. No. 10/672,700

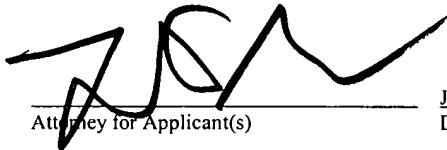
Amdt. dated January 22, 2007

Reply to Office Action of December 20, 2006

Claims 1 to 63 remain in the application. For the foregoing reasons, Applicant(s) respectfully request allowance of all pending claims. If the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant(s).

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 22, 2007.



Attorney for Applicant(s)

January 22, 2007
Date of Signature

Respectfully submitted,



Forrest Gunnison
Attorney for Applicant(s)
Reg. No. 32,899
Tel.: (831) 655-0880